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1947

Business and Professions Code

Contractors

Department of Professional and Vocational Standards

Contractors' State License Board

E. E. ZEISS

Registrar of Contractors



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CONTENTS

	Page
Contractors Law (Chapter 9 of Division III of Business and Professions Code -----	3
Government Code Sections Relating to Administrative Procedure---	20
Section 1094.5, Code of Civil Procedure-----	30

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BUSINESS AND PROFESSIONS CODE

CONTRACTORS

Chapter 9 of Division 3 of the
Business and Professions Code

Article 1. Administration

7000. There is in the Department of Professional and Vocational Standards a Contractors' State License Board, which consists of seven members appointed by the Governor. Contractors' State License Board

7001. All members of the board shall be contractors actively engaged in the contracting business, have been so engaged for a period of not less than five years preceding the date of their appointment and shall so continue in the contracting business during the term of their office. No one shall be eligible for appointment who does not at the time hold an unexpired license to operate as a contractor. Qualification of members

7002. One member of the board shall be a general engineering contractor, three members shall be general building contractors and three members shall be specialty contractors. Membership

For the purposes of construing this article, a general engineering contractor is a contractor whose principal contracting business is in connection with fixed works for any or all of the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and airways, sewerage and bridges; a general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and inclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof; a specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

Each member of the board shall be of recognized standing in his branch of the contracting business, shall be at least 30 years of age and of good character.

Each member of the board shall have been a citizen and resident of the State of California for at least five years next preceding his appointment.

Terms	7003. The terms of the members of the board in office when this chapter takes effect shall expire as follows: One general building contractor and one specialty contractor, January 15, 1940; one general building contractor and one specialty contractor, January 15, 1941; one general building contractor and one specialty contractor, January 15, 1942; the general engineering contractor January 15, 1943.
Appoint-ments	Appointments to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled by a member from the same branch of the contracting business as was the branch of the member whose term has expired. Each member shall hold office after the expiration of his term until his successor has been duly appointed and qualified.
Vacancies	Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.
Certificate	7004. Each member of the board shall receive a certificate of appointment from the Governor, and before entering upon the discharge of the duties of his office, shall file with the Secretary of State, the constitutional oath of office.
Removal	7005. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.
Meetings	7006. The board shall hold not less than four regular meetings each fiscal year, once in July, once in October, once in January and once in April, for the purpose of transacting such business as may properly come before it. At the July meeting of each year the board shall elect officers. Special meetings of the board may be held at such times as the board may provide in its by-laws. Four members of the board may call a special meeting at any time.
Quorum	7007. Four members constitute a quorum at a board meeting.
Notice of meeting	Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the by-laws.
Committees	7008. The board may appoint such committees and make such by-laws and rules and regulations it deems necessary to carry out the provisions of this chapter.
Oaths	7009. Any member or committee of the board may administer oaths and may take testimony and proofs concerning all matters within the jurisdiction of the board.
Power of board	7010. The board is vested with all functions and duties relating to the administration of this chapter, except those functions and duties vested in the director under the provisions of Division 1 of this code.
Registrar of contractors	7011. The board by and with the approval of the director shall appoint a registrar of contractors, and fix his compensation at a rate of eight thousand dollars (\$8,000) per year. The registrar shall be the executive secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him by the board.

For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and such other assistants and subordinates as may be necessary. Executive personnel

Appointments shall be made in accordance with the provisions of civil service laws.

7012. The registrar, with the approval of the board and the director, may, when funds are available, cooperate in the enforcement of governmental legislation relating to the construction industry, and shall appoint such assistants as may be necessary therefor. Cooperation

7013. The board may in its discretion review and sustain or reverse by a majority vote any action or decision of the registrar. Final authority

7014. The board may procure equipment and records necessary to carry out the provisions of this chapter. Equipment

7015. The board shall adopt a seal for its own use. The seal shall have the words "Contractors' State License Board, State of California," and the care and custody thereof shall be in the hands of the registrar. Seal

7016. Each member of the board shall be reimbursed for his traveling expenses necessarily incurred in the performance of his duties hereunder. Expenses

7017. The board, in addition to the usual periodic reports, shall within 30 days prior to the meeting of the regular session of the Legislature submit to the Governor a full and true report of its transactions during the preceding biennium including a complete statement of the receipts and expenditures of the board during the period. Reports

A copy of the report shall be filed with the Secretary of State. All records shall be public records.

Article 2. Application of Chapter

7025. "Person" as used in this chapter includes an individual, a firm, copartnership, corporation, association or other organization, or any combination of any thereof. "Person" defined

7026. The term contractor for the purposes of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person, except an owner who contracts for a project with a licensed contractor or contractors or a licensed architect or a registered civil engineer acting solely in his professional capacity, who in any capacity other than as the employee of another with wages as the sole compensation, undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. "Contractor" defined

Material
men

7027. A contractor in the meaning of this chapter includes subcontractor or specialty contractor, but does not include anyone who merely furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of the contractor.

License
required

7028. It is unlawful for any person to engage in the business or act in the capacity of a contractor within this State without having a license therefor, unless such person is particularly exempted from the provisions of this chapter.

Individual
licenses

7028.5. It is unlawful for any person who is or has been a member, officer, director or responsible managing officer of a licensed copartnership, corporation, firm, association or other organization to individually engage in the business or individually act in the capacity of a contractor within this State without having a license in good standing to so engage or act.

Joint
licenses

7029. It is unlawful for any two or more licensees, each of whom has been issued a license to engage separately in the business or to act separately in the capacity of a contractor within this State, to jointly submit a bid or otherwise act in the capacity of a contractor within this State without first having secured an additional license for acting in the capacity of such a joint venture or combination in accordance with the provisions of this chapter as provided for an individual, copartnership or corporation.

Penalty

7030. Any person who acts in the capacity of a contractor without a license, and any person who conspires with another person to violate any of the provisions of this chapter, is guilty of a misdemeanor.

Compensa-
tion pro-
hibited

7031. No person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action in any court of this State for the collection of compensation for the performance of any act or contract for which a license is required by this chapter without alleging and proving that he was a duly licensed contractor at all times during the performance of such act or contract.

Article 3. Exemptions

Public
personnel

7040. This chapter does not apply to an authorized representative of the United States Government, the State of California, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this State.

Court officers

7041. This chapter does not apply to officers of a court when they are acting within the scope of their office.

Public
utilities

7042. This chapter does not apply to public utilities operating under the regulation of the State Railroad Commission on construction, maintenance and development work incidental to their own business.

Oil and gas
operators

7043. This chapter does not apply to any construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other

operation of any petroleum or gas well, when performed by an owner or lessee.

7044. This chapter does not apply to owners of property, Owners building or improving structures thereon for the occupancy of such owner and not intended for sale.

7045. This chapter does not apply to the sale or installation of any finished products, materials or articles of merchandise, Finished products which are not actually fabricated into and do not become a permanent fixed part of the structure.

7046. This chapter does not apply to any construction, alteration, improvement or repair of personal property. Personal property

7047. This chapter does not apply to any construction, alteration, improvement or repair carried on within the limits and boundaries of any site or reservation, the title of which rests in the Federal Government. Federal work

7048. This chapter does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price for which for labor, materials, and all other items, is less than one hundred dollars (\$100), such work or operations being considered as of casual, minor or inconsequential nature. Minor work

This exemption does not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than one hundred dollars (\$100) for the purpose of evasion of this chapter or otherwise. Division of operation

This exemption does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he is a contractor or that he is qualified to engage in the business of contractor. Advertising

7049. This chapter does not apply to any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising, or clearing or other work upon land in rural districts for fire prevention purposes, except when performed by a licensee under this chapter. District work
Farming, etc.

Article 4. Classifications

7055. For the purpose of classification, the contracting business includes any or all of the following branches: Classification

- (a) General engineering contracting.
- (b) General building contracting.
- (c) Specialty contracting.

7056. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works for any or all of the following divisions or subjects: Irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and airways, sewerage and bridges. General engineering contractor

General
building
contractor

7057. A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

Specialty
contractor

7058. A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

Powers to
classify and
limit
operations

7059. The registrar, with the approval of the board, may adopt rules and regulations necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage, as defined by Sections 7055, 7056, 7057, and 7058. A licensee may make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. No additional application or license fee shall be charged for qualifying or classifying a licensee in additional classifications.

Incidental
work

Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

Article 5. Licensing

Examina-
tions
permitted

7065. Under rules and regulations adopted by the board and approved by the director, the registrar may investigate, classify and qualify applicants for contractors' licenses by written or oral examination, or both.

Minors

7065.5. No license shall be issued to a minor, nor to any copartnership a member of which is a minor, nor to any corporation any officer, director or responsible managing employee of which is a minor, nor to any other kind of business organization in which a minor holds a responsible official position, unless such minor shall first have had a guardian appointed by a court of competent jurisdiction.

Applications

7066. To obtain an original license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of a license under the terms of this chapter.

The application shall be made on a form prescribed by the registrar in accordance with the rules and regulations adopted

by the board and shall be accompanied by the fee fixed by this chapter.

7067. The information contained in the application forms shall include a complete statement of the general nature of the applicant's contracting business, a concise statement of the classification or classifications under which the applicant desires to be qualified as a contractor and, in addition, if the applicant is an individual, his name and address; if a copartnership, the names and addresses of all partners; and if a corporation, association or other organization, the names and addresses of the president, vice president, secretary, and chief construction managing officer or officers, or responsible managing employee, together with all other information which may be deemed necessary by the registrar. Information required

7068. The board shall require an applicant to show such degree of experience, and such general knowledge of the building, safety, health and lien laws of the State and of the rudimentary administrative principles of the contracting business as the board deems necessary for the safety and protection of the public. Experience and knowledge required

An applicant may qualify in regard to his experience and knowledge in the following ways:

(a) If an individual, he may qualify by personal appearance or by the appearance of his responsible managing employee.

(b) If a copartnership, a corporation, or any other combination or organization, it may qualify by the appearance of the responsible managing officer or member of the personnel of such applicant firm.

If the individual qualifying by the examination of his experience and knowledge ceases for any reason whatsoever, to be connected with the licensee to whom the license is issued, or if any individual who has been denied a license, or who has had a license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or has been a member, officer, director, associate or responsible managing employee of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew its license while it was under suspension, shall in any way become associated with or be employed by a licensee, the licensee shall notify the registrar in writing within 10 days from such cessation, association or employment. If a notice is given the license shall remain in force for a reasonable length of time to be determined by rules of the board. Notice of disassociation required

If the licensee fails to notify the registrar within the 10-day period, at the end of the period his license shall be ipso facto suspended. The license shall be reinstated upon the filing of an affidavit, executed by the licensee or a member of the licensee firm and filed with the registrar, to the effect that the person originally appearing for examination on behalf of the licensee Failure to notify of disassociation

has been replaced by another individual and that this individual has been qualified by examination and that he has not had his license suspended or revoked or that he has not been connected with a licensee who has had his license suspended or revoked for reasons that would preclude this individual from personally qualifying as to the good character required of an applicant.

Character
requirements

7069. An applicant, and each officer, director, partner, associate and responsible managing employee thereof, shall possess good character. Lack of character may be established by showing any of the following:

(a) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license.

(b) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another.

(c) That the applicant, or any officer, director, partner, associate or responsible managing employee of which bears a bad reputation for honesty and integrity.

(d) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has been convicted of a felony.

Prior status

7070. An applicant shall show that he has never been refused a license or had a license revoked for reasons that would preclude the granting of the license applied for.

Licenses
for groups

7071. No license shall be issued to a corporation, copartnership, or other combination or organization if any responsible officer of such corporation, or other combination or organization, or any member of such copartnership does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

Licensee
entering
armed forces

7071.3. Notwithstanding any other provision of this code, the holder of a current valid license under this chapter who has entered or enters the armed forces of the United States may designate a responsible managing person or persons to act for him while in the armed forces and until one year after his discharge therefrom, after which time the authority to so act for the licensee shall terminate. The annual renewal fee shall be paid for any such licensee so designating others to act for him.

Any license shall remain in full force and effect for 30 days after the entrance of the licensee into the armed forces, but he shall prior to the expiration of such 30-day period provide the registrar with the name or names of the persons so designated to conduct his business. The registrar may qualify such persons in any manner he may adopt. Persons so designated shall possess the good character required of an applicant for license.

Persons so designated committing any of the acts which would be grounds for the revocation or suspension of a license shall be removed from the business of such licensee after a hearing as provided in this chapter.

7071.5. If application for a license is made by any person whose license has been suspended or revoked as a result of disciplinary action for violation of Sections 7108 or 7120, or is made by any copartnership, association or corporation whose license has been suspended or revoked as a result of disciplinary action for violation of Sections 7108, 7116 or 7120, or by any person who may have been associated with such copartnership, association or corporation, the board may require as a condition precedent to the issuance of a license to such applicant, or removal of suspension, that such applicant file or have on file with the registrar a bond issued by an admitted surety insurer in a sum to be fixed by the board based upon the magnitude of the operations of the applicant, but which sum shall not be less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), running to the State of California and conditioned upon his compliance with all the provisions of this chapter, or in lieu thereof that such applicant or licensee post with the registrar a cash deposit in an amount based upon the magnitude of the operations of the applicant but of a sum of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

Surety bond
or cash de-
posit may
be required

If the board shall by rule require the filing of such bond or the posting of such cash deposit, every person injured by the unlawful acts or omissions of such contractor may bring an action in a proper court on the bond or a claim against the cash deposit for the amount of the damage he suffered as a result thereof to the extent covered by the bond or the cash deposit.

Recovery
on bond
or deposit

The claim of any employee of the contractor for wages shall be a preferred claim against any bond or cash deposit required by rule of the board.

Wage claims
preferred

The determination of the validity and priority of any such claim for wages shall be based upon a finding of fact made by the registrar in accordance with the provisions of Article 7, Section 7090 to 7120 of the chapter.

If any bond or cash deposit which may be required is insufficient to pay all claims for wages in full, the sum recovered shall be distributed among all claimants for wages in proportion to the amount of their respective claims. The partial payment of such claims shall not be considered as full payment and the claimants may file for the completion of payment of any unpaid balance as otherwise provided, and the registrar may continue suspension or revocation of any license involved until such time as such claim or claims are satisfied in full. If the board shall by rule require the filing of such bond or the posting of such cash deposit by such applicant, the failure of such applicant to file the said required bond or post the said required deposit shall constitute grounds for denying him a

Pro rata
distribution

Penalty for
failure to
file bond

license or the renewal of his license, and the failure of such applicant or contractor to file the required bond or post the required deposit, shall constitute grounds for denying or revoking his license.

Period
of bond

Such bond or cash deposit shall remain in force and with the registrar during the time for which such year's license is issued to such applicant or contractor, and during such additional time as there may be unsatisfied claims outstanding against the same.

Issuance of
licenses

7072. Following receipt of the fee and an application furnishing complete information in the manner required by the registrar, and after such examination and investigation as he may require, the registrar, within 15 days after approval of the application, shall issue a license to the applicant permitting him to engage in business as a contractor under the terms of this chapter for the balance of the fiscal year.

Denial under
Government
Code

7073. If information brought to the attention of the registrar concerning the character and integrity of an applicant is such that, in the registrar's discretion, it would be proper to deny the application, the registrar shall forthwith notify the applicant to show cause within not more than 30 days, why the application should not be denied. The proceedings shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

Retention
of fees

7074. Should an application for an original license be denied for any of the reasons provided in this article, or should an applicant for an original license, after having been notified to do so, fail to appear for the examination therefor within six months from the date of filing his application, the fees paid by the applicant in connection with the filing of such application shall be forfeited and shall be credited to the Contractors' License Fund as an earned fee. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

Possession
of license

7075. The license shall be signed by the licensee, shall be nontransferable and shall be displayed in the licensee's main office or chief place of business. Satisfactory evidence of the possession of his license and the current annual renewal thereof shall be exhibited by the licensee upon demand.

Death

7076. A surviving member or members of a licensed copartnership by reason of death shall be entitled to continue in business under such license until the expiration date thereof, if application for permission is made to the registrar within 30 days after death of the member, and the application is approved by the registrar in accordance with the rules and regulations he may adopt.

Article 6. Records

Records

7080. The registrar shall maintain at the office of the department in Sacramento, open to public inspection during office hours, a complete, indexed record of all applications, licenses

issued, licenses renewed and all revocations, cancellations and suspensions of licenses.

He shall furnish a certified copy of any license issued, upon receipt of the sum of fifty cents (\$0.50).

The certified copy shall be received in all courts and elsewhere as evidence of the facts stated therein.

7080.1. The verified certificate of the registrar that a person was not a duly licensed contractor at a specified date or during a specified period of time shall be admitted in any court as prima facie evidence of the facts recited therein. Verified certificate

7081. Whenever funds are available for the purpose, the registrar shall publish a list of the names and addresses of contractors, registered under this chapter and of the licenses issued, suspended or revoked, and such further information with respect to this chapter and its administration as he deems proper. Publication of list

He may furnish the lists to such public works and building departments, public officials or public bodies, and other persons interested in or allied with the building and construction industry in this or any other State as he deems advisable and, at such intervals as he deems necessary whenever funds are available. Distribution of list

Copies of the lists may also be furnished by the registrar upon request to any firm or individual upon payment of a reasonable fee fixed by the registrar.

7082. Whenever funds are available for the purpose, the registrar may publish and disseminate to licentiates of the board, and public officials or other persons interested in or allied with the building and construction industry, such information with relation to the administration and enforcement of this chapter as he deems necessary to carry out its purposes. Additional information

7083. All licensees shall report to the registrar all changes of personnel, name style or addresses recorded under this chapter within 30 days after the changes are made. Changes

7084. The registrar, with the approval of the director may adopt and promulgate the rules and regulations he deems necessary to carry out the provisions of this article.

Article 7. Disciplinary Proceedings

7090. The registrar may upon his own motion and shall upon the verified complaint in writing of any person, investigate the actions of any contractor within the State and may temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one or more of the acts or omissions constituting causes for disciplinary action. Jurisdiction

The registrar may proceed to take disciplinary action as in this article provided against a person licensed under the provisions of this chapter even though the grounds or cause for such disciplinary action arose upon projects or while the licensee was acting in a capacity or under circumstances or facts which, under the provisions of Sections 7044, 7045, 7046 and 7048

of this article, would otherwise exempt him or his operations from the provisions of this chapter.

Government
Code

7091. All accusations against licensees shall be filed within two years after the act or omission alleged as the ground for disciplinary action. The proceedings under this article shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

Penalties

7095. The decision may:

(a) Provide for the immediate complete suspension by the licensee of all operations as a contractor during the period fixed by the decision.

(b) Permit the licensee to complete any or all contracts shown by competent evidence taken at the hearing to be then uncompleted.

(c) Impose upon the licensee compliance with such specific conditions as may be just in connection with his operations as a contractor disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the registrar.

Bond
required

7100. In any proceeding for review by a court, the court may in its discretion, upon the filing of a proper bond by the licensee in an amount to be fixed by the court, but not less than one thousand dollars (\$1,000), guaranteeing the compliance by the licensee with specific conditions imposed upon him by the registrar's decision, if any, permit the licensee to continue to do business as a contractor pending entry of judgment by the court in the case. There shall be no stay of the registrar's decision pending an appeal or review of any such proceeding unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required to stay the effect of the registrar's decision in the first instance.

Transcript

The person desiring a review shall pay to the registrar the sum of twenty cents (\$0.20) for each 100 words of the transcript of the record and proceedings certified to the reviewing court.

Renewal of
suspended
license

7102. After suspension of the license upon any of the grounds set forth in this article, the registrar may renew the license upon proof of compliance by the contractor with all provisions of the decision as to renewal or, in the absence of such decision or any provisions therein as to renewal, in the sound discretion of the registrar.

Reissuance
after
revocation

After revocation of a license upon any of the grounds set forth in this article, the license shall not be renewed or reissued within a period of one year after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

7106. The suspension or revocation of license as in this chapter provided may also be embraced in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a contractor. Consolidation

7106.5. The lapsing or suspension of a license by operation of law or by order or decision of the registrar or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license. Jurisdiction

7107. Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor constitutes a cause for disciplinary action. Abandonment

7108. Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and their application or use for any other construction project or operation, obligation or purpose constitutes a cause for disciplinary action. Misuse of funds

7109. Wilful departure from or disregard of, plans or specifications in any material respect, and prejudicial to another without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications constitutes a cause for disciplinary action. Disregard of specifications

7110. Wilful or deliberate disregard and violation of the building laws of the State, or of any political subdivision thereof, or of the safety laws or labor laws or compensation insurance laws of the State constitutes a cause for disciplinary action. Violation of laws

7111. Failure to make and keep records showing all contracts, documents, records, receipts and disbursements by a licensee of all of his transactions as a contractor and open to inspection by the registrar for a period of not less than three years after completion of any construction project or operation to which the records refer constitutes a cause for disciplinary action. Preservation of records

7112. Misrepresentation of a material fact by an applicant in obtaining a license constitutes a cause for disciplinary action. Misrepresentation

7113. Failure in a material respect on the part of a licensee to complete any construction project or operation for the price stated in the contract for such construction project or operation or in any modification of such contract constitutes a cause for disciplinary action. Violation of contracts

7114. Aiding or abetting an unlicensed person to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person with the intent Unlicensed persons (See also Sec. 7118)

to evade the provisions of this chapter constitutes a cause for disciplinary action.

Violation of this law 7115. Failure in any material respect to comply with the provisions of this chapter constitutes a cause for disciplinary action.

Fraud 7116. The doing of any wilful or fraudulent act by the licensee as a contractor in consequence of which another is substantially injured constitutes a cause for disciplinary action.

Personnel variance 7117. Acting in the capacity of a contractor under any license issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as provided in this chapter, constitutes a cause for disciplinary action.

Unlicensed persons 7118. Knowingly entering into a contract with a contractor while such contractor is not licensed as provided in this chapter constitutes a cause for disciplinary action.

Lack of reasonable diligence 7119. Wilful failure or refusal without legal excuse on the part of a licensee as a contractor to prosecute a construction project or operation with reasonable diligence causing material injury to another constitutes a cause for disciplinary action.

Withholding money 7120. Wilful or deliberate failure by any licensee or agent or officer thereof, to pay any moneys, when due for any materials or services rendered in connection with his operations as a contractor, when he has the capacity to pay or when he has received sufficient funds therefor as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased constitutes a cause for disciplinary action, as does the false denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer, or other person, any discount upon such indebtedness or with intent to hinder, delay, or defraud the person to whom such indebtedness is due.

Prohibition against association of suspended contractor 7121. Any person who has been denied a license, or who has had his license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or who has been a member, officer, director, associate or responsible managing employee of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as such member, officer, director, associate or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner or responsible managing employee of a licensee, and the employment, election or association of such person by a licensee shall constitute grounds for disciplinary action.

Participation in violation 7122. The performance by any partnership, corporation, firm or association of any act or omission constituting a cause

for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who is a member, officer, director, associate or responsible managing employee of such partnership, corporation, firm or association, and who participated in such prohibited act or omission.

Article 7.5. Workmen's Compensation Insurance Reports

7125. Every person licensed as a contractor shall report in writing the name and address of the insurer carrying workmen's compensation insurance on his employees to the registrar within 10 days after any policy of insurance is issued to him and he shall send a copy of this report to the insurer. Report of licensee

The insurer, including the State Compensation Insurance Fund, shall thereafter report to the registrar any cancellation or lapse of the policy within 10 days after such cancellation or lapse. A renewal of a policy or a new policy in lieu of one that has expired is not considered a cancellation or lapse.

7126. Any licensee or agent or officer thereof, who violates, or omits to comply with, any of the provisions of this article is guilty of a misdemeanor. Violation penalty

Article 8. Revenue

7135. The fees received under this chapter shall be deposited in the Contractors' License Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter. Appropriations

7136. The director shall designate a sum not to exceed 10 per cent of the total income of the Contractors' License Board for each fiscal year to be transferred to the Professional and Vocational Standards Fund as the board's share of the cost of administration of the department. Administration cost

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule: Schedule of fees

(a) The application fee for an original license is ten dollars (\$10).

(b) The fee for reapplication by or reexamination of an applicant for an original license who has previously applied for a license but has failed to qualify therefor is ten dollars (\$10).

(c) The annual renewal fee is five dollars (\$5).

(d) The penalty for failure to apply for a renewal of a license is five dollars (\$5).

Article 9. Renewal of Licenses

7140. All licenses issued under the provisions of this chapter shall expire on June 30th of each year. Expiration of licenses

A license may be renewed without penalty by the filing of a renewal application with the registrar not later than June 30th of each fiscal year. To be effective such renewal application must be made upon forms prescribed by the board and must be accompanied by the annual renewal fee prescribed by

Renewal
procedure

this chapter or fixed by the board. Otherwise a license, application for renewal of which has not been so filed on or before June 30th of each fiscal year, shall be ipso facto suspended until a renewal application is properly filed, and shall be renewable only if the application for the renewal thereof is filed with the registrar not later than September 30th of each year on a form prescribed by the board and is accompanied by the penalty fee prescribed by this chapter, or fixed by the board, in addition to the current renewal fee.

Period for
renewal

No license shall be renewed under any conditions unless the prescribed renewal application, together with all prescribed fees, is filed with the registrar on or before September 30th of each year.

Operations
pending
renewal

7141. The filing of a renewal application within the time, in the form and with the fees prescribed in this article, authorizes operation as a contractor by the licensee until the actual issuance of the renewal license for the ensuing fiscal year; provided, that the license of said applicant is not otherwise under suspension by reason of the decision of the registrar in a disciplinary proceeding.

No exami-
nation for
renewal

7142. A licensee who meets all the requirements for the filing of his renewal application as prescribed herein, and who is otherwise entitled to the issuance of a renewal license, shall not be required to take or pass an examination as a condition to the issuance of such renewal license; provided, however, that a requirement by a rule of the board that the licensee shall answer questions in the renewal application form shall not be deemed to be an examination.

No renewal
of license
suspended
for year

7143. No license which has been under suspension by order of the registrar or by operation of law for more than a year immediately preceding the filing of an application for renewal shall be renewed, and, if an application for the renewal thereof is filed, the registrar shall refuse to issue such renewal license and shall return the renewal fees tendered by the applicant with notice of refusal to renew and the grounds therefor.

Renewal of
license under
suspension

7144. A license which is under suspension by order of the registrar, or by operation of law, during the time within which a renewal application may be filed, but which has been under suspension for less than a year prior to the time application for renewal is made, may be renewed upon compliance with all the provisions of this article; provided, however, that such renewal license shall not be issued unless and until the prior suspension has been lifted and the license otherwise reinstated; and provided, further, that in such a case the filing of a renewal application form does not authorize the operation as a contractor until the actual issuance of the renewal license. Should a license otherwise entitled to be renewed be under suspension during the time within which a renewal application may be filed, and such application for renewal is filed, but the suspension is not lifted or the license reinstated within a year from the date it was imposed, said application for renewal shall be

denied and the fees tendered returned to the applicant with notice thereof and grounds therefor.

7145. The registrar may refuse the issuance of a renewal license to a licensee, otherwise entitled to the issuance of such license, for the failure or refusal on the part of such licensee to complete the renewal application form prescribed by the board, or to otherwise comply with rules and regulations adopted by the board relative to the issuance of renewal licenses, and which are not inconsistent with the provisions of this chapter.

GOVERNMENT CODE SECTIONS RELATING TO ADMINISTRATIVE PROCEDURE

CHAPTER 5. ADMINISTRATIVE ADJUDICATION

Definitions

11500. In this chapter unless the context or subject matter otherwise requires:

(a) "Agency" includes the state boards, commissions and officers enumerated in Section 11501 and those to which this chapter is made applicable by law, except that wherever the word "agency" alone is used the power to act may be delegated by the agency and wherever the words "agency itself" are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

(b) "Party" includes the agency, the respondent and any person, other than an officer or an employee of the agency in his official capacity, who has been allowed to appear in the proceeding.

(c) "Respondent" means any person against whom an accusation is filed pursuant to Section 11503 or against whom a statement of issues is filed pursuant to Section 11504.

(d) "Hearing officer" means a hearing officer qualified under Section 11502.

(e) "Agency member" means any person who is a member of any agency to which this chapter is applicable and includes any person who himself constitutes an agency.

Application of chapter

11501. (a) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

(b) The enumerated agencies referred to in Section 11500 are:

Board of Dental Examiners of California.
Board of Medical Examiners of the State of California.
Board of Osteopathic Examiners of the State of California.
Board of Nurse Examiners of the State of California.
State Board of Optometry.
California State Board of Pharmacy.
State Department of Public Health.
State Board of Public Health.
Board of Examiners in Veterinary Medicine.
State Board of Accountancy.
California State Board of Architectural Examiners.
State Board of Barber Examiners.
State Board of Registration for Civil Engineers.
Registrar of Contractors.
State Board of Cosmetology.
State Board of Funeral Directors and Embalmers.

Structural Pest Control Board.
Yacht and Ship Brokers Commissioner.
Director of Professional and Vocational Standards.
Collection Agency Board.
State Fire Marshal.
State Mineralogist.
Director of Agriculture.
Labor Commissioner.
Real Estate Commissioner.
Commissioner of Corporations.
Department of Social Welfare.
Social Welfare Board.
Department of Institutions.
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.
Board of Pilot Commissioners for Humboldt Bay and Bar.
Board of Pilot Commissioners for the Harbor of San Diego.
Fish and Game Commission.
State Board of Education.
State Board of Equalization.
Insurance Commissioner.
Building and Loan Commissioner.
State Board of Cleaners.
Board of Social Work Examiners.
Board of Chiropractic Examiners.

11502. (a) The Director of the Department of Professional and Vocational Standards has power to appoint a staff of hearing officers for the department as provided in Section 110.5 of the Business and Professions Code. Any agency requiring full-time hearing officers for the purposes of this act has power to appoint them for the particular agency. Each hearing officer shall have been admitted to practice law in this State for at least five years immediately preceding his appointment and shall possess any additional qualifications established by the State Personnel Board for the particular class of position involved.

Appointment
of hearing
officers

(b) All persons now employed or on reemployment lists or in the military service who, pursuant to and in accordance with the terms and provisions of their civil service classifications and prior to the effective date of this act, shall have performed functions similar to those of a hearing officer in an agency may act as hearing officers in the same agency and shall not be subject to the qualifications provisions of subdivision (a).

(c) Full-time hearing officers serving pursuant to appointment under subdivision (a) shall be paid at the rate of not less than four thousand eight hundred dollars (\$4,800) per year.

11503. A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify

Accusation

the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

Statement
of issues

11504. A hearing to determine whether a right, authority, license or privilege should be granted, issued or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing, and in addition any particular matters which have come to the attention of the initiating party and which would authorize a denial of the agency action sought. The statement of issues shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief. The statement of issues shall be served in the same manner as an accusation; provided, that, if the hearing is held at the request of the respondent, the provisions of Sections 11505 and 11506 shall not apply and the statement of issues together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509.

Service of
accusation;
what
included

11505. (a) Upon the filing of the accusation the agency shall serve a copy thereof on the respondent as provided in subdivision (c). The agency may include with the accusation any information which it deems appropriate, but it shall include a post card or other form entitled Notice of Defense which, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506. The copy of the accusation shall include or be accompanied by a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon him of the accusation, and that failure to do so will constitute a waiver of his right to a hearing.

Statement to
respondent

(b) The statement to respondent shall be substantially in the following form:

Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying accusation is delivered or mailed to the agency within 15 days after the accusation was personally served on you or mailed to you, [here insert name of agency] may proceed upon the accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to: [here insert name and address of agency].

Manner of
service

(c) The accusation and all accompanying information may be sent to respondent by any means selected by the agency.

But no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent shall have been served personally or by registered mail as provided herein, or shall have filed a notice of defense or otherwise appeared. Service may be proved in the manner authorized in civil actions. Service by registered mail shall be effective if a statute or agency rule requires respondent to file his address with the agency and to notify the agency of any change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to respondent at the latest address on file with the agency.

11506. (a) Within 15 days after service upon him of the accusation the respondent may file with the agency a notice of defense in which he may: Notice of defense

- (1) Request a hearing;
- (2) Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
- (3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that he can not identify the transaction or prepare his defense;
- (4) Admit the accusation in whole or in part;
- (5) Present new matter by way of defense.

Within the time specified respondent may file one or more notices of defense upon any or all of these grounds, but all such notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(b) The respondent shall be entitled to a hearing on the merits if he files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file such notice shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in subdivision (a) (3), all objections to the form of the accusation shall be deemed waived.

(c) The notice of defense shall be in writing signed by or on behalf of the respondent and shall state his mailing address. It need not be verified or follow any particular form.

11507. At any time before the matter is submitted for decision the agency may file or permit the filing of an amended or supplemental accusation. All parties shall be notified thereof. If the amended or supplemental accusation presents new charges the agency shall afford respondent a reasonable opportunity to prepare his defense thereto, but he shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation may be made orally and shall be noted in the record. Amended or supplemental accusation

11508. The agency shall determine the time and place of hearing. The hearing shall be held in San Francisco if the transaction occurred or the respondent resides within the First District Court of Appeal district, in the County of Los Angeles if the transaction occurred or the respondent resides within Time and place of hearing

the Second or Fourth District Court of Appeal districts, and in the County of Sacramento if the transaction occurred or the respondent resides within the Third District Court of Appeal district. Provided that the agency, if the transaction occurred in a district other than that of respondent's residence, may select the county appropriate for either district; the agency may select a different place nearer the place where the transaction occurred or the respondent resides; or the parties by agreement may select any place within the State.

11509. The agency shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing. The hearing shall not be prior to the expiration of the time within which the respondent is entitled to file a notice of defense.

Form of
notice of
hearing

The notice to respondent shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before [here insert name of agency] at [here insert place of hearing] on the ---- day of -----, 19 ---, at the hour of -----, upon the charges made in the accusation served upon you. You may be present at the hearing, may be but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to [here insert appropriate office of agency].

Subpoenas

11510. (a) Before the hearing has commenced the agency shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Section 1985 of the Code of Civil Procedure. After the hearing has commenced the agency itself hearing a case or a hearing officer sitting alone may issue subpoenas and subpoenas duces tecum.

Witnesses
from more
than 100
miles

(b) The process issued pursuant to subdivision (a) shall extend to all parts of the State and shall be served in accordance with the provisions of Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend at a place out of the county in which he resides unless the distance be less than 100 miles from his place of residence, except that the agency, upon affidavit of any party showing that the testimony of such witness is material and necessary, may indorse on the subpoena an order requiring the attendance of such witness.

Witness fees
and expenses

(c) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per

diem compensation of \$3 for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

11511. On verified petition of any party, an agency may order that the testimony of any material witness residing within or without the State be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of his testimony; a showing that the witness will be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside the State and where the agency has ordered the taking of his testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189 of the Government Code.

Depositions

11512. (a) Every hearing in a contested case shall be presided over by a hearing officer. The agency itself shall determine whether the hearing officer is to hear the case alone or whether the agency itself is to hear the case with the hearing officer.

Hearing officer to preside

(b) When the agency itself hears the case the hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the hearing officer. When the hearing officer alone hears a case he shall exercise all powers relating to the conduct of the hearing.

Powers of hearing officer

(c) A hearing officer or agency member shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or agency member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request concerns an agency member the issue shall be determined by the other members of the agency. Where the request concerns the hearing officer the issue shall be determined by the agency itself if the agency itself hears the case with the hearing officer, otherwise the issue shall be determined by the hearing officer. No agency member shall withdraw voluntarily or be subject to disqualification if his disqualification would prevent the existence of a quorum qualified to act in the particular case.

Disqualification of hearing officer and agency members

(d) The proceedings at the hearing shall be reported by a phonographic reporter,

Evidence
rules

11513. (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If respondent does not testify in his own behalf he may be called and examined as if under cross-examination.

Admissi-
bility of
evidence

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

Evidence by
affidavit

11514. (a) At any time 10 or more days prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit which he proposes to introduce in evidence, together with a notice as provided in subdivision (b). Unless the opposing party, within seven days after such mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after request therefor is made as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

(b) The notice referred to in subdivision (a) shall be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question him unless you notify (here insert name of proponent or his attorney) at (here insert address) that you wish to cross-examine him. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) on or before (here insert a date seven days after the date of mailing or delivering the affidavit to the opposing party).

Official
notice

11515. In reaching a decision official notice may be taken, either before or after submission of the case for decision, of any generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially

noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the agency.

11516. The agency may order amendment of the accusation after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence in his behalf. If such prejudice is shown the agency shall reopen the case to permit the introduction of additional evidence.

Amendment
of accusation
after sub-
mission

11517. (a) If a contested case is heard before an agency itself the hearing officer who presided at the hearing shall be present during the consideration of the case and if requested, shall assist and advise the agency. Where a contested case is heard before an agency itself, no member thereof who did not hear the evidence shall vote on the decision.

Decision

(b) If a contested case is heard by a hearing officer alone, he shall prepare a proposed decision in such form that it may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the agency as a public record. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

Adoption of
proposed
decision of
hearing
officer

(c) If the proposed decision is not adopted as provided in subdivision (b) each party shall be furnished with a copy of the proposed decision. The agency itself may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer he shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall be furnished to each party. The agency itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself no agency member may vote unless he heard the additional oral evidence.

Procedure
upon failure
to adopt
proposed
decision

11518. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented and the penalty, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

Form of
decision

11519. The decision shall become effective 30 days after it is delivered or mailed to respondent unless : a reconsideration is ordered within that time, or the agency itself orders that the

Effective
date of
decision

decision shall become effective sooner, or a stay of execution is granted. A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective.

If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to such officer after the decision has become effective.

Defaults

11520. If the respondent fails to file a notice of defense or to appear at the hearing, the agency itself may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that he is entitled to the agency action sought, the agency may act without taking evidence. Nothing herein shall be construed to deprive the respondent of the right to make any showing by way of mitigation.

Reconsideration

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to respondent, or on the date set by the agency itself as the effective date of the decision if such date occurs prior to the expiration of the 30-day period. If no action is taken on a petition within the time allowed for ordering reconsideration the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to a hearing officer. A reconsideration assigned to a hearing officer shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself no agency member may vote unless he heard the evidence.

Petition for reinstatement or reduction of penalty

11522. A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

Judicial review

11523. Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. Except as otherwise provided in this section any such petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. The complete record of the proceedings, or such

parts thereof as are designated by the petitioner, shall be prepared by the agency and shall be delivered to petitioner, within 30 days after a request therefor by him, upon the payment of the expense of preparation and certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by a hearing officer, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. Where petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record the time within which a petition may be filed shall be extended until five days after its delivery to him. The agency may file with the court the original of any document in the record in lieu of a copy thereof.

11524. The agency may grant continuances at any stage of the proceedings. Continuance

11525. If any person in proceedings before an agency disobeys or resists any lawful order or refuses to respond to a subpoena, or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct during a hearing or so near the place thereof as to obstruct the proceeding, the agency shall certify the facts to the superior court in and for the county where the proceedings are held. The court shall thereupon issue an order directing the person to appear before the court and show cause why he should not be punished as for contempt. The order and a copy of the certified statement shall be served on the person. Thereafter the court shall have jurisdiction of the matter. The same proceedings shall be had, the same penalties may be imposed and the person charged may purge himself of the contempt in the same way, as in the case of a person who has committed a contempt in the trial of a civil action before a superior court. Contempt

11526. The members of an agency qualified to vote on any question may vote by mail. Mail
vote

11527. Any sums authorized to be expended under this chapter by any agency shall be a legal charge against the funds of the agency. Charge

11528. In any proceedings under this chapter any agency, agency member, secretary of an agency or hearing officer has power to administer oaths and affirmations and to certify to official acts. Power to
administer
oaths

CODE OF CIVIL PROCEDURE SECTION 1094.5

Court review
of adminis-
trative
orders

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

Jurisdiction

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

Abuse of
discretion

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

Relevant
evidence

(d) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (e) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

Judgment

(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

Stay of order
or decision

(f) The court in which proceedings under this section are instituted may stay the operation of the administrative order or

decision pending the judgment of the court, provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.



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